



Federal Communications Commission  
Consumer & Governmental Affairs Bureau  
Washington, D.C. 20554

FEB 18 2005

Control No. 0500211

02-278/  
**CGB**

The Honorable David Obey  
U. S. House of Representatives  
2314 Rayburn House Office Building  
Washington, D.C. 20515

DOCKET FILE COPY ORIGINAL

Dear Congressman Obey:

Thank you for your letter of January 31, 2005, regarding the Commission's rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). You enclosed correspondence received from Wisconsin's Governor Jim Doyle and constituent Dave Koch, expressing their concerns regarding the Consumer Bankers Association's Petition for Declaratory Ruling on Preemption of Wisconsin Telemarketing Rules. Specifically, they are seeking assistance in assuring the protection of Wisconsin's "no call" law.

As you know, on July 3, 2003, the Commission released a Report and Order in CG Docket No. 02-278, which adopted rules establishing a national do-not-call registry and other amendments to its telemarketing rules. The national do-not-call registry is nationwide in scope, includes all telemarketers, with the exception of certain non-profit organizations, and covers both interstate and intrastate telemarketing calls.

In establishing the national do-not-call registry, we recognized that states traditionally have had jurisdiction over only intrastate calls, while the Commission has had jurisdiction over interstate calls. However, Congress enacted section 227 and amended section 2(b) of the Communications Act to give the Commission jurisdiction over both interstate and intrastate telemarketing calls. Congress did so based upon the concern that states lack jurisdiction over interstate calls. We also noted that, although section 227(e) gives states authority to impose more restrictive intrastate regulations, we believe that it was the clear intent of Congress generally to promote a uniform regulatory scheme under which telemarketers would not be subject to multiple, conflicting regulations.

Therefore, we concluded that any state regulation of interstate telemarketing calls that differs from our rules almost certainly would conflict with and frustrate the federal scheme and almost certainly would be preempted. We indicated that the Commission will consider any alleged conflicts between state and federal requirements and the need for preemption on a case-by-case basis. Accordingly, any party that believes a state law is inconsistent with section 227 or our rules may seek a declaratory ruling from the Commission. We reiterated the interest in uniformity – as recognized by Congress – and encouraged states to avoid subjecting telemarketers to inconsistent rules.

Following the release of the July 2003 Report and Order, the Commission received over 60 petitions for reconsideration and/or clarification of the amended rules. In addition, the Commission recently received six petitions for declaratory ruling seeking preemption of certain state telemarketing laws. These petitions are currently under review and pending before the Commission. Therefore, we have placed a copy of your correspondence in the public record for these proceedings.

We will consider your views carefully along with the record developed in the proceeding. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

for

K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau



h DISTRICT, WISCONSIN

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DAVID R. OBEY

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4907**

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January 31, 2005

The Honorable Michael K. Powell  
Chair  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554-0001

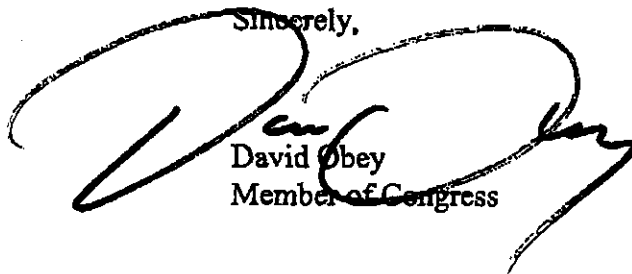
Dear Chairman Powell:

I am writing on behalf of my constituents in Wisconsin regarding the Consumer Bankers Association petition which seeks to have Wisconsin's Do Not Call list preempted by federal law.

I share the concerns of my constituents and I've enclosed correspondence I've received on this matter including a letter from Wisconsin's Governor, Jim Doyle. I would appreciate it if you would review the enclosed information and advise me of your response. In addition to mail, please fax the response to the attention of the Legislative Correspondent at (202) 225-3240.

Thank you for your attention to this matter. I look forward to hearing from you soon.

Sincerely,



David Obey  
Member of Congress

Enclosures

*CCB  
Policy  
TELE  
2/1*



**JIM DOYLE**  
**GOVERNOR**  
**STATE OF WISCONSIN**

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January 28, 2005

The Honorable Herb Kohl  
United States Senate  
330 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Russ Feingold  
United States Senate  
506 Hart Senate Building  
Washington, D.C. 20510

The Honorable Paul Ryan  
U.S. House of Representatives  
1217 Longworth House Office Bldg.  
Washington, D.C. 20515

The Honorable Tammy Baldwin  
U.S. House of Representatives  
1020 Longworth House Office Bldg.  
Washington, D.C. 20515

The Honorable Ron Kind  
U.S. House of Representatives  
1713 Longworth House Office Bldg.  
Washington, D.C. 20515

The Honorable Gwen Moore  
U.S. House of Representatives  
1408 Longworth House Office Building  
Washington, D.C. 20515

The Honorable James F. Sensenbrenner, Jr.  
U.S. House of Representatives  
2332 Rayburn  
Washington, D.C. 20515

The Honorable Thomas E. Petri  
U.S. House of Representatives  
2462 Rayburn  
Washington, D.C. 20515

The Honorable David R. Obey  
U.S. House of Representatives  
2314 Rayburn  
Washington, D.C. 20515

The Honorable Mark Green  
U.S. House of Representatives  
1314 Longworth House Office Building  
Washington, D.C. 20515

Dear Wisconsin Delegation:

I write to ask you to protect the Wisconsin no call law. The Federal Communications Commission is presently accepting comments on a business-initiated petition to preempt large portions of that law and I ask that you exercise your ability to prevent preemption.

Preemption of Wisconsin's strong no call law by the weaker federal law will result in a substantial increase of telemarketing calls to Wisconsin residents. Under the federal law, Wisconsin consumers who have an established business relationship with one company can expect to receive calls from a multitude of companies affiliated with that business. These companies will be permitted to solicit our citizens despite the fact that

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the consumer has no relationship to or interest in the product or service offered by the affiliated business.

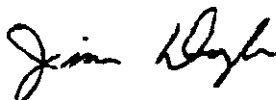
In addition, the requested preemption will give the large, national and multi-national corporations an unfair competitive advantage over smaller, Wisconsin businesses since such businesses do not often have affiliates.

Preemption will also enable businesses to repeatedly call customers who have terminated their relationship with the business for a period of 18 months. It defies common sense to believe that these calls are anything other than harassment. No consumer who terminates a relationship with a business wants that business to continue calling.

The provisions of the Wisconsin law at issue in the petition before the FCC were carefully considered by the drafters of the Wisconsin law as well as the Wisconsin Legislature. They were rejected. Indeed, Wisconsin citizens have repeatedly voiced their desire for the strongest no call law possible. Having been largely free of unwanted telemarketing calls for the two years that our law has been in effect, Wisconsinites do not want those calls to begin again.

Thank you for your consideration.

Sincerely,



Jim Doyle  
Governor

E-Entry Batch #23 (May Change)  
Processed 1/31/2005 by MYSZKA

Name	E-Mail #	Case	Issue	Form	Assigned
	22222	#1295797	PR Privacy		

From: Koch, David  
1602 Becher Drive Wausau, Wisconsin, 54401  
7158757897 Email: koch3@msn.com

Subject: WriteRep Responses Issue: PR Privacy Code:

Good Afternoon:

As you are probably aware, the FCC is considering a petition to weaken Wisconsin's "no-call list". Below is a comment sent to the FCC on their Internet form. I hope you will do everything possible to keep the privacy and peace created by the "no-call list" for Wisconsin's citizens intact without any tampering by the FCC.

Thank you.  
Dave Koch

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To the FCC:

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I object to any weakening of the Wisconsin "NO-CALL" list. If the FCC wants to do something positive for the people of the entire United States, adopt a "no-call list" with restrictions similar to Wisconsin's, instead of the watered-down Federal version. It's time the FCC and other Federal agencies did what the people want, instead of what the select few industries/businesses want, usually at the expense of the general public.

A copy of these comments will be sent to Wisconsin Congressmen.

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